

Message Text

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66/20

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FM SECSTATE WASHDC

TO USMISSION GENEVA

C O N F I D E N T I A L STATE 109758

C O R R E C T E D C O P Y (OMISSION SUBJECT AND REFERENCE LINES)

E.O. 11652 GDS

TAGS: CSCE, PFOR, XG

SUBJECT: CSCE: ORGANIZATION OF FINAL DOCUMENTS

REFS: (A) GENEVA 2826

(B) GENEVA 3272

(C) GENEVA 1712

1. IN RESPONSE TO REF A REQUEST FOR DEPT GUIDANCE,
WE CONCUR IN REF B DRAFT TEXT FOR A CSCE FINAL DOCUMENT
AND DELEGATION IS AUTHORIZED TO SUPPORT IT.

2. DEPT FEELS THAT IT WOULD BE HIGHLY DESIRABLE FOR
FINAL CONFERENCE DOCUMENTS TO EXPRESS CLEARLY THE
INTENTION OF PARTICIPANTS THAT NONE OF THE DOCUMENTS
IS CONSIDERED TO BE OF A LEGALLY BINDING CHARACTER.

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WE FIND DRAFT FINAL DOCUMENT QUITE HELPFUL IN THIS

REGARD. THE CHARACTER OF THIS DOCUMENT IS DISTINCTLY THAT OF A FINAL ACT WHICH CUSTOMARILY IS NON-BINDING AND SIGNATURE OF WHICH DOES NOT NORMALLY IMPUTE LEGAL FORCE TO ATTACHED TEXTS. IT IS, THUS, A PARTICULARLY USEFUL DEVICE FOR ALLOWING SUMMIT LEVEL SIGNATURES WITHOUT THOSE SIGNATURES IMPLYING BINDING AGREEMENTS. HOWEVER, WE ARE CONCERNED THAT TO CHARACTERIZE THE ATTACHED TEXTS, WHICH ARE PRESENTLY SOMEWHAT DIVERSE IN CHARACTER, AS AN INTEGRAL PART OF THE FINAL ACT MIGHT CALL INTO QUESTION THE NON-BINDING NATURE OF THE FINAL ACT. YOU SHOULD THEREFORE REQUEST SUBSTITUTION ON THE WORDS "IS ANNEXED TO" FOR "FORMS AN INTEGRAL PART OF" IN PARA 5. WE WOULD VERY MUCH LIKE TO RETAIN THE PRESENT CHARACTER OF THIS DOCUMENT AND, IF POSSIBLE, EXPLICIT USE OF THE TERM "FINAL ACT." THEREFORE, WE FEEL IT IS IMPORTANT THAT THE CONFERENCE DOCUMENTS SHOULD BE ATTACHED TO THE FINAL ACT AND THAT SIGNATURES SHOULD APPEAR AT THE END OF A BRIEF COVER DOCUMENT AND BEFORE THE TEXTS. DELEGATION SHOULD ACTIVELY SUPPORT THIS VIEW.

3. IN ADDITION, WE FOUND CHARACTERIZATION OF TEXTS IN PARA 10 OF EARLIER FRG DRAFT REPORTED REF C AS "DECLARATIONS," "PROPOSALS," "RECOMMENDATIONS" OR "RESOLUTIONS" PARTICULARLY HELPFUL IN SUPPORTING IDEA THAT NONE OF THE TEXTS IS INTENDED TO BE LEGALLY BINDING. WE NOTE THAT PARA 5 OF REF B TEXT WOULD ALSO CHARACTERIZE CSCE TEXTS AS "DECLARATIONS, RECOMMENDATIONS OR RESOLUTIONS." DELEGATION SHOULD ACTIVELY SUPPORT THIS APPROACH WHEN PARAGRAPH 5 IS EXPANDED TO LIST THE VARIOUS DOCUMENTS PRODUCED BY THE CONFERENCE, AND MIGHT SEEK TO HAVE EC TEXT SUBSTITUTE "FOLLOWING DECLARATIONS, RECOMMENDATIONS, AND RESOLUTIONS" FOR "FOLLOWING DOCUMENTS" IN PARA 5. INGERSOLL

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